

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 376 of 1995

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HEIR AND SUCCESSOR OF LATE KHIMJI GOVA CHANDRAPAL

Versus

DRIVER YUNUS ALIBHAI

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Appearance:

MR JV BHAIKAVIA for Petitioner  
NOTICE SERVED BY DS for Respondent No. 1  
MR YS LAKHANI for Respondent No. 2

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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 28/08/98

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. On a plain reading of the impugned order it becomes obvious that the present appellant had approached the Motor Accident Claims Tribunal (by forwarding the relevant memos/applications by registered post), by two separate and independent applications. The first

application was for preferring a claim arising out of an accident under the Motor Vehicles Act, and the second was for pursuing that claim as an indigent person, being an application under Order 33, Rule 1 CPC. It appears that the application to sue in forma pauperis was not registered by the Tribunal as an independent application, either by way of Civil Misc. Application or otherwise, and has been treated substantially as the claim petition itself. Looking to the impugned order it also appears that for the reasons stated in the said order, the entire claim petition for compensation arising from the accident in question has been dismissed. In view of this confusion, it is not necessary to go into the validity or otherwise of the reasons given by the Tribunal. It is only necessary to point out that before the substantive claim petition could have been dismissed on any ground whatsoever, the application to pursue the same in forma pauperis should have been heard and disposed of earlier.

3. On the facts and circumstances of the case and in the interests of justice, the order impugned in the present appeal is quashed and set aside. The Tribunal is directed to take up the application to pursue the claim in forma pauperis and to hear and decide the same on merits, after issuing notice to all the parties to the present appeal.

4. It is understood and clarified that the substantive claim petition may be dealt with by the Tribunal in accordance with law after the aforesaid decision has been rendered. Accordingly the present appeal is allowed with no order as to costs.

5. Yadi to the Motor Accident Claims Tribunal (Main), Jamnagar to be sent forthwith i.e. not later than 3rd September 1998. Direct service is permitted.

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